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MAY MEETING, 1884.

The regular meeting was held at the rooms on Thursday, the 8th instant, and, in the absence of the President, Dr. GEORGE E. ELLIS took the chair.

The Recording Secretary read his account of the preceding meeting.

The Corresponding Secretary announced that he had received a letter from Mr. Roger Wolcott, accepting his election as a Resident Member.

The Librarian reported the donations to the Library.

Mr. AMOS A. LAWRENCE offered for the Cabinet a miniature portrait of John Brown, and a likeness of Charles Robinson, together with a file of Kansas newspapers for the Library, and made substantially the following remarks: —

These daguerreotypes of two remarkable men are presented to the Society in the hope that they will be carefully kept, as there are no duplicates. They were taken in the height of the excitement about Kansas, in 1856, and in what was thought to be the final struggle for political supremacy between the free and the slave States. Charles Robinson, acting Governor by the free choice of the *bonâ-fide* settlers, still lives upon the land which he passed over many years before the settlement of Kansas, when on his way overland to California acting as surgeon to a large emigrant party.

When Eli Thayer obtained the charter of the New England Emigrant Aid Society, and began to preach up the Kansas crusade, the organization was completed here in Boston; and Dr. Robinson, of Fitchburg, was chosen to be the territorial agent, Charles H. Branscomb took charge of the emigrant parties, and S. C. Pomeroy was financial agent in Kansas.

The enthusiasm increased; parties were formed all over the Northern States. The Emigrant Aid Company undertook to give character and direction to the whole. This society was to be loyal to the Government under all circumstances; it was to support the party of law and order, and it was to make Kansas a free State by *bona-fide* settlement, if at all. Charles

Robinson had the requisite qualities to direct this movement. He had had great experience in the troubles of settlement in California. He was cool, judicious, entirely devoid of fear, and in every respect worthy of the confidence reposed in him by the settlers and by the society. He was obliged to submit to great hardship and injustice, chiefly through the imbecility of the United States Government agents. He was imprisoned, his house was burnt, and his life was often threatened. Yet he never bore arms, nor omitted to do whatever he considered to be his duty. He sternly held the people to their loyalty to the Government against the arguments and the example of the "higher law" men, who were always armed, who were not real settlers, and who were bent on bringing about a Border war, which they hoped would extend to the older States. This policy of the New England Society, carried out by Robinson and those in Kansas who acted with him, was finally successful and triumphant. David Atchison and his hordes retired from the scene; the few negro slaves who had been carried into the Territory disappeared, and now (1884) the State contains one million one hundred thousand inhabitants, without paupers and without beggars. A whole generation is coming up who do not know the taste of ardent spirits. This has always been a favorite theory and practice of Robinson; and now they have gone beyond him, and have inserted prohibition in the State Constitution, and elected their State officers on that issue.

But what shall we say of John Brown, who was another representative man? His course was the opposite of Robinson's. He was always armed; he was always disloyal to the United States Government and to all government, except to what he called the "higher law." He was always ready to shed blood, and he always did shed it without remorse; for without blood, as he often said, "there can be no remission." That he was sincere there can be no doubt; for he made his numerous sons his companions, and endeavored to imbue them with his own ideas; at least four of them were killed with arms in their hands.

In the night of May 23, 1856, Mr. Doyle and his two sons were taken from their beds at Pottawatamie, and caused to walk one hundred yards from their house, when the father was shot dead by Brown, while the sons were stabbed and

hacked to death with straight navy swords in the hands of his sons.

Mr. Wilkinson, who was taking care of a sick wife, was obliged to leave her and go with the midnight party, who brutally murdered him, not so far from his wife but that she heard the struggle and the final shot.

William Sherman was another victim of these midnight assassins, who were not then known, but who are now known perfectly. The evidence is complete. Professor Spring, of the State University of Kansas, is preparing a work upon the early history of that State, which will contain the truth, with all the proofs, so that hereafter there can be no such statements made as have deceived nearly a whole generation.

It fell to me to give John Brown his first letter to Kansas, introducing him to Governor Robinson, and authorizing him to employ him and draw on me for his compensation if he could make him useful in the work of the Emigrant Aid Society. But very soon Governor Robinson wrote that he could not employ him, as he was unreliable, and "would as soon shoot a United States officer as a Border ruffian."

When he was a prisoner at Harper's Ferry, I wrote to Governor Wise, advising his release on the ground that he was a monomaniac, and that his execution would make him a martyr. The answer to this letter was very creditable to Governor Wise. Afterwards, when in Washington about the Kansas troubles, I spoke of it to Mr. Pierce, the ex-President, who was there at the time, and he asked to see it. So I ordered it sent to him; but it was never returned.

John Brown had no enemies in New England, but many friends and admirers. He was constantly receiving money from them. They little knew what use he was making of it, for he deceived everybody. If he had succeeded in his design at Harper's Ferry of exciting a servile insurrection, the country would have stood aghast with horror; his would have been anything but a martyr's crown.

Dr. ELLIS exhibited a photograph of the model of the statue of John Harvard, which is about to be cast in bronze and set up in Cambridge. It represents him as a young man, wearing an academic gown and seated in a chair, with his hand extended upon an open book, and with a thoughtful, meditative

expression upon his countenance. Dr. ELLIS then spoke as follows: —

It is a satisfaction to know that some university men in our mother country are sharing the interest which has long been felt by so many of us here to trace the English antecedents of the honored man, the scholar and divine whose name is borne by Harvard College. Especially is this sympathetic interest with us felt at Emmanuel College, Cambridge, John Harvard's Alma Mater. In connection with the tercentenary of the foundation of that college, which is to have observance in the next month, there may well be a quickened attention given to the subject. Informed as the members of that academic body are of the present full and fair development and the signal prosperity of our own college, it must be most grateful for them to realize that its munificent founder, in the days of our wilderness straits and poverty, was one of their own alumni. Most quietly and unobserved did he slip away from his English home, and after less than two years of an invalid life in this land of his exile, leave so fruitful and fragrant a memorial of himself here. His birthplace, parentage, date of embarkation and arrival, are still unknown to us.

Within a few days I have received a letter from Cambridge, England, April 15, from the Rev. Alfred Rose, M. A., who is dean, fellow, and bursar of Emmanuel College, and who prefers to designate himself by the last of those titles. Accompanying his letter he sends me the April number of the "Genealogist," an English quarterly magazine. In this is an article entitled "Harvard University, United States, and the Harvards of Southwark," by W. Rendle, F. R. C. S. It opens as follows: —

> "I wish we could be more absolutely sure of the identity of the more or less unconscious founder of the great Harvard University. But whether so or no, he certainly deserves more notice than he has had, as out of his comparatively humble bequest has come this — one of the noblest features of the United States of America."

Dr. Rendle then presents, chiefly from our own authorities, such scant information as we have of Harvard, in connection with the founding of our college, estimating the present pecuniary value of his bequest at five thousand pounds sterling. Referring to the occasion of the first emigration of the Pilgrims

to Plymouth, "to escape the harassing treatment dealt out to Puritanical people," and regarding Harvard as in sympathy with them, he proceeds as follows: —

"Growing out of this condition of things, I have a very interesting story to tell; and although it may in some particulars lack exact demonstration, the facts are as I give them, and the probability that they fill up the narrative, or nearly so, is clear to me. Very much of this persecuting trouble occurred in the borough of Southwark, and here, I have no doubt, John Harvard was born; here, also, as far as can be made out, his friends and connections were, and on the objectionable side. I note in the warden's papers, vestry registers, and other books of St. Saviour's, many Harvards, Harverds, and Harvyes, appearing, with little interruption, for many years, and implying the same persons. The names taken from these sources follow. In some manuscripts and illustrative volumes relating to St. Saviour's — left to the British Museum by the late chaplain, Samuel Benson — he states that he cannot find the name of John Harvard, the founder; but that he had no doubt he was born of this family of Harvard of St. Saviour's about 1610, probably a short time before. After careful, I will not say exhaustive, examination of the original books and papers, I am quite of the same opinion."

Dr. Rendle then gives a list of several entries in the documents referred to, of Harvards, Harverds, and Harvyes, of St. Saviour's, Southwark, all of the same family connection, between the dates of 1582 and 1625. Though some of these are entered as butchers, Dr. Rendle observes, "they all appear to be people of means and position," — vestrymen, church wardens, one a governor of Queen Elizabeth's Grammar School, and some assessed to the provost-marshal tax among the chief people. No John Harvard is on the list. Puritan people gathered much from about 1600 in private and obscure houses in this borough, and from it went forth many to New England. Among these, possibly, was John Harvard.

The Rev. Bursar Rose, in his letter to me, commenting on Dr. Rendle's article, sent to him with the caution, "I pray you, do not expect too much; it is partly tentative, and to elicit more," adds the following very important information, which is new to us: —

"There is a material point in our abstract of college entries of which, I believe, Dr. Rendle was not aware. It is that there appear to be really two entries referring to John Harvard. First — '1627: 10br., 19.

Harvard, Jno. P. [Pensioner], Middx., A. M. 1635.' Second — '1628, Apr. 17. Harvard, Jno. P. A. M., 1635.' It would appear that the entry is thus repeated, perhaps because there was some delay in Harvard's actually coming into residence. The first to be observed is the Middx., i. e. Middlesex, which assigns that as Harvard's county. The entry of the county is very frequent, though not by any means universal at that time in our register. I believe Dr. Rendle is not aware of this point of *Middlesex*. It may be that John Harvard's father had left the Southwark colony of Harvards, and crossed the river and settled in Middlesex,—the part of London, as you know, north of the Thames. If this was the case, I fear the Great Fire of London must have swept away the parish registers which might contain the records of births, etc., we should so much like to find."

So far only has research reached. Zealous inquirers will pursue it, and we wait hopefully the results.

Mr. QUINCY then said: —

I have brought with me an old deed which I recently discovered among some papers in my attic, and which I will present to the Society as having a certain interest from its autographs. It is the conveyance of Mrs. Ann Hibbins, who was executed for witchcraft June 19, 1656. The genius of Hawthorne, as well as her own tragical fate, must always preserve this lady's name from oblivion. By this instrument she conveys to Matthew Coy her "dwelling house near unto the spring, and next the house where I now dwell." One of the witnesses was the second John Cotton, who was then a boy. Pinned to the deed by one of the pins of the period, is a receipt by Mrs. Hibbins of part of the purchase-money; and after her death this was proved before her reputed brother, Governor Bellingham. The deed itself was proved before Governor Endicott, who a few weeks before, in open court, had sentenced the grantor to the gallows. Following the fine gubernatorial autograph of the magistrate, is that of the well-known Secretary Rawson, who attests the registration of the deed. The codicil to Mrs. Hibbins's will describes Edward Rawson as among her "loving friends," and intrusts her chests and desk to his care. He was undoubtedly one of the leading citizens who endeavored to save her life. The deed is signed by a mark, but, instead of the usual cross, it consists of

part of the name written with fair distinctness. Temporary infirmity may have prevented Mrs. Hibbins from freely using her hand. Her high social position, and the unusual capacity with which tradition credits her, render it certain that no lack of education occasioned the imperfect signature. The document adds nothing to our knowledge of the past; but the names of Bellingham, Endicott, and Rawson — men in different ways so nearly connected with this unfortunate lady — set the imagination to work to construct scenes which history has suppressed.

Mr. DEANE submitted several papers relating to the hostile expeditions of Samuel Argall to the northern part of Virginia in 1613, in which the several settlements at Mt. Desert, St. Croix, and Port Royal were broken up. After giving a brief narrative of this affair, and saying that it had been often regarded by historians as a lawless and wholly unauthorized proceeding, inasmuch as Argall himself was trespassing upon territory beyond the chartered limits of the southern colony of Virginia, Mr. Deane explained the purport of the papers he now communicated, which, by the courtesy of the Maine Historical Society, he had been permitted to use. By these it appeared that to the remonstrance of the French Government against the act of Argall, the Virginia Company had replied that Argall was authorized and commissioned, under the seal of the colony, to do what he had done; and the English Government justified the act.[1]

Argall left Virginia on the expedition which resulted in the attack on St. Savior, at Mt. Desert, not earlier than June.[2]

The first document read was a letter from H. de Montmorency, Admiral of France, to King James I., dated Oct. 28, 1613, N. S.:[3] —

[1] The question as to the justification of Argall in displacing the French at this time does not depend on our views as to the rights of rival colonists or of the English or the French Government to the territory which each claimed. That Argall was acting under a commission and instructions from the Virginia Company or Colony, and that their action and his were justified and assumed by the English Government, is sufficient to relieve him from the stigma which attaches to a pirate or a buccaneer. — C. D.

[2] Purchas, vol. iv. 1764–1765.

[3] See "Calendar of State Papers, Colonial Series, 1574–1660," p. 15. The original letter is in French, and this translation is supplied at the Public Record Office. — C. D.

SIRE, — I thought it was my duty to accompany the letters which the King my master wrote you with some of my own, in order to have the honor to offer to your Majesty my very humble service, and to entreat you to be favorable, (since, as Admiral under the authority of the King, I have the charge of the marine affairs of this Kingdom,) that I represent to you the just complaint and the injury which the French have received from some of your subjects, who, being in an English ship, called the Treasurer, where Samuel d'Argail is captain, went to that country of Canada, called New France, to the harbor of Pentagoet, where they found a small settlement, which was begun by permission of the King with our leave, and the expense of Madame La Marquis de Guercheville, lady of honor to the Queen, through a good and holy zeal to lead the poor Savages of the said country to a civil conversation, and to preach to them the doctrine of Jesus Christ, and for that purpose, a number of Jesuit fathers were there.

But your said subjects have ruined this plan; they have attacked the colony; they have slain many men, and among others, two of the said Jesuits; and besides, they carried away two others with them into Virginia, (by what people say); and have abandoned the rest of the people to the mercy of the waters, in a small skiff. We know well enough, Sire, the goodness, and the usual clemency with which you are filled, and that you are so far removed from such inhumanity that you will assuredly do justice in this matter, when you are informed of it. Therefore, in the name of France, and of the private parties interested in these countries, I beg your Majesty for three things; *one*, that you will command the two Jesuit fathers to be returned in Safety with the other prisoners; the other, that restitution shall be made for so remarkable a robbery, which costs the said dame Marquise more than a hundred thousand livres of loss. And the third, that your council or the company of Virginia may be obliged to declare and explain as far as where she understands to be carried the boundaries and confines of the said country of Virginia, inasmuch as we thought the difficulty might have come on account of the neighborhood of the two colonies. But your Majesty knows that for more than eighty years the French have been in possession of it, and have given to it the name of New France. The hope that your Majesty will be [1] how prudently to remedy this, and find it good, if it please you, that Mons. de Buisseaux, Ambassador may be interested more particularly with it, to give us an answer to it as favorable as the complaint of it is reasonable, and full of justice. Nevertheless I pray God,

[1] The word or words here wanting might, if they could be supplied, help to bring this sentence into a little better shape. Probably the original letter which we have not, or the translation, at this place, is a little obscure. The meaning is obvious. — C. D.

Sire, That he may give your Majesty a very long and very happy life.

Your very humble Servant,
H. DE MONTMORENCY.

At FONTAINEBLEAU
ce xxviij of October 1613

Indorsed
To the King of Great Britain

Cotemporary indorsement } "A letter from the Admiral of France to his Ma^tie concerning Samuel Argall."

"Concerning y^e Depredations committed by y^e English upon y^e French at Canada, and y^t it belongs to them."

This is written tempus Carolus II. by one of Secretary Sir Joseph Williamson's clerks.

The reply of the Virginia Company in defence of Argall then followed:[1] —

. . . To the substance of the first complaint: That it is true Captain Argall did take a French ship within the limits of our colony, who went about to plant contrary to the extent and privilege of his Majesty's

[1] I copy these extracts from the "Boston Daily Advertiser" of Aug. 31, 1870. The paper was procured in England by the late Dr. Leonard Woods, and was read in part at a meeting of the Maine Historical Society at Old York, Maine, August 22, by the late Mr. John A. Poor. It had only recently been discovered in the Cottonian collection in the British Museum, the original being partly consumed by fire; and in printing the portions read several omissions were indicated by blank spaces.

In reprinting the extracts I have modernized the spelling, and given the abbreviated words in full. A few obvious clerical errors or printer's errors are corrected by me, and a few words are conjecturally added in brackets. In the interesting communication made by Mr. Poor on this occasion, he made use of several other papers procured by Dr. Woods. These, with Mr. Poor's own remarks, are now in the Library of the Maine Historical Society, and have been kindly submitted to my inspection and use; but the Cottonian manuscript seems to have been detached from the other papers, and is wanting, and cannot now be found; and my only resource is now to use the print of the "Boston Daily Advertiser," or to procure a fresh copy from London. The existence of this paper is to be explained by supposing that the English Government, on receiving the remonstrance of the French Government, applied to the Council of the Virginia Company in England for an explanation, and this is the Company's defence, addressed to their own Government. It will be seen that no question here arises as to their right to expel intruders from the whole territory embraced in the Virginia patent through its whole extent, and such may have been the true interpretation of their rights and duties as given in section xii. of the charter of April 10, 1606. (See Stith, Appendix, p. 5.) The service here rendered was acknowledged by the Northern Company as having been performed by Sir Samuel Argall, who was despatched "with commission to displace them [the French], which he performed with much discretion, judgment, valor, and dexterity." — *Brief Relation*, in 2 Mass. Hist. Soc. Coll., vol. ix. pp. 1-25. — C. D.

letters patent to us granted. That he did it by the command of the governor of our colony by his commission to him given under the seal of the colony, and by virtue of such authority as is to him derived from his Majesty's great seal of England.

That whereas it is said, it was 200 leagues from our plantation, intimating thereby that it was out of our limits, we say the coast lying next E. N. E. and W. S. W. many more hundred leagues will not deliver them without our borders, we having granted unto us from 34 to 45 degrees of north latitude, and from E. to W. from one sea to another, with a certain clause that if any other nations should get land to the north of 45 degrees, and by any river or lake, or by land travel should come to the southwards, to plant behind our backs, that it should be lawful for our governor to resist, displant, and take by force any that should make such attempt.

And we do further avow that the said ship was taken between 43 and 44 degrees, which in express limitation is within his Majesty's grant and is annexed to his royal crown. And that this is proved by the several confessions of divers of the French examined by Sir Thomas Dale, and certified accordingly unto us by him. And that the said Captain Argall, besides his several commissions for his justification to us showed, hath farther produced unto [us] a testimonial or certificate under the seal of our colony, that he hath in these his voyages no way exceeded the commissions to him given . . . that upon the cross-examination . . . certified the said ship and other . . . lawful prize unto the said colony by . . . Letters Patents, and that therefore we suppose be wholly for the fact excusable . . . Concerning the aggravation of circumstances we . . . Argall has not above 60 men in his ship. That the first shot at him; and that all the victuals, munition, utensils for plantation besides the ship and her app . . . which was re-delivered at the request of the French A . . . was not to the value of £200 sterling, as we are [can?] prove by the several inventories delivered by the F[rench to] the Marshal of Virginia, and together with their [examinations] unto us certified.

Secondly, to the imputation of inhumanity used by him [to his] prisoners, we say it is wholly false. That neither Monsieur Taussy[1] nor any other were detained as prisoners, but that he went and returned from ship to shore at pleasure. That Captain Argall did propound to them three offers, —

1. First, to give them a small pinnace, with sufficient victuals [to] carry them all into France.

2. Secondly, to give them passage from thence to the bank, 120 leagues from Cape Brittayne, there to meet . . . French shipping.

[1] Saussaye, the captain of the French ship captured by Argall. — C. D.

3. Thirdly, to give Monsieur Taussy, their captain, a shallop, and as [many] of his men as he would choose, with sufficient provision to their own wage, and to carry the residue . . . into Virginia . . . but condition was chosen by the captain, and accordingly performed. These offers are proved by the confession of Monsieur Taussy, his two Jesuits, the Master, and at least ten other of the company, which are ready to be shown, with many attestations of great humanity and . . . courtesy showed to them . . .

And that these our reasonable answers considered, the King of France is neither in his Homs' [honor?] nor title any way injured by the just defence of our own, and maintenance of those limits and extent of territory given unto us by his Majesty's Letters Patents many years before the French had any footing to the south of Canada.

Neither hath Madame de Guercheville any reason to expect reparation having entered without our leave, within our limits and dominion, by force to plant or trade, contrary to the good correspondence and league of these two most royal kings. And that if any particular be hereof doubted or replied unto, we will be ready to give testimony and further answer thereunto.

In addition to the claim presented by Admiral Montmorency for reparation for the injuries done by Argall, another protest and claim appear to have been presented by Sieur de Buisseaux, resident minister of the French King to the English Court. These appear by the reply to that official by the English minister, said to have been copied by Mr. Sainsbury from the British State papers, in the French language; but an English version only is found among the papers here submitted, perhaps not entire. This paper is of considerable length, but those portions only which relate to the subject now in hand are here presented. A copy of the letter will be filed in the archives of the Society. It is entitled, —

P. R. O. State Papers, France, 1614.

"Reply to the complaints presented to the King by the Sieur de Bisseaux, resident Ambassador to the King, from the most Christian King," etc.

. . . . . .

Reply to the Fourth Complaint concerning Virginia.

Captain Argal claims that he has taken the French ship in question within the limits of our colony; because that, against the privileges granted to the said company for the letters patent of the King, it thought proper to establish itself there by force; and that what he has

done in relation to it, was by virtue of the commission decreed to him for that effect, under the seal of the said company, which authority is derived from the special power granted by his Majesty to the said colony under the great seal, and that nevertheless the said ship was restored at the entreaty of the Ambassador.

Notwithstanding which reply his Majesty wishing to make evident to the Ambassador the wish which he has to cause to be given to him every possible content and satisfaction has caused an order to be given that the said Captain Argal shall be represented to give account of his action every , and when the ambassador desires, and that Turner his lieutenant in like manner shall be represented as soon as he can be found.

. . . . . .

Reply to the Eighth Complaint, touching the Marchioness de Guercheville.

As to Madame the Marchioness of Guercheville, she has no reason to complain; nor to hope for any reparation; seeing that her ship entered by force the territory of the said colony to settle there, and to trade without their permission, to the prejudice of our treaties and of the good understanding there is between our Kings.

Indorsed
D[elivere]d y^e^ Fr[ench] Amb[assador by]
Mons Edmo[ndes]
1614.
Answer to the French complayntes[1]

The subject was further discussed by Professor Torrey, Mr. George S. Hale, and Dr. Ellis.

Mr. GOODELL remarked that to any one familiar with the change in the form of government which Massachusetts underwent upon the substitution of the charter of 1691 for the charter of King Charles, it is not a little perplexing to find that the supposed anachronism in the popular line, —

"In good old colony times, when we lived under the king," —

[1] The parts in brackets are torn away. The above appears to be the endorsement upon the copy of this paper preserved in the English archives, in the French language. It says "delivered the French ambassador by Mons. Edmondes 1614." In a memorandum accompanying this paper, probably by Mr. Sainsbury, this official is styled "Sir Thomas Edmondes." He was the English minister to the court of France for many years, the period covering the date of this letter, 1614; yet he was temporarily in England for several months during the first half of this year. See Birch's "Court and Times of James I.," vol. i. pp. 296, 302, 323, 324. — C. D.

as applied to the provincial period, is justified by the language of the Revolutionary leaders in their legislation, and other formal public acts after July, 1775.

Besides other sufficient reasons for believing that this popular phrase was not used in reference to the period of the first charter, it may be observed, in passing, that, though under the colony charter we owed fealty to the crown, our dependence upon the sovereign was not then peculiarly close. Barring the administration of Dudley and Andros, we enjoyed almost complete autonomy before 1692, even during the time of the Commonwealth.

The question which the following essay is intended to answer is, What led to the use of the word "colony" instead of "province," during, and after the dissolution of, the Provincial Congress?

The interest, if not importance, of this subject may perhaps be a sufficient excuse for recalling some Revolutionary events quite familiar, but which it is necessary to bear clearly in mind as we proceed to consider the doings of the General Court upon its re-establishment in the summer of 1775.

On the 1st of September, 1774, Governor Gage issued writs for convening a new assembly at Salem, on the 5th of October, following. As early as the 6th of August he had received from the Earl of Dartmouth a copy of the act of parliament, "for the better regulating the Government of the Massachusetts Bay," together with other important papers, including instructions from the Privy Council for carrying the act into operation. This act expressly repealed the provisions of the charter respecting the choice of councillors, and vested in the crown the authority to appoint the members of that board; and, accordingly, a list of thirty-six councillors — who, from the manner of their appointment, came to be generally known as *mandamus councillors* — was among the papers transmitted to the Governor from the Secretary of State.

The publication of this act of parliament increased the resentment which the act for closing the port of Boston had provoked, and excited the indignation of the people to the highest pitch, insomuch that all but fourteen of the persons named by the king as councillors either voluntarily refused the trust or were forced to resign, and most of the remainder

were virtually prisoners at Boston, under the protection of the royal forces. By the charter the councillors elected in May were to continue in office one year; but, by the act of parliament, their offices were vacated on the 1st of August, and the Governor, in issuing writs for the election of deputies to a new general court, had expected the new councillors to act with the representatives. Deeming it impracticable, in view of the increasing tumults in the vicinity of Boston, to convene a quorum of the Council, at Salem, the Governor, a week before the time fixed for the meeting of the representatives, issued a proclamation excusing them from appearing at, or holding, a general court.

Notwithstanding this proclamation, ninety of the representatives elect assembled at the time and place appointed, and, after waiting in vain, the first day, for the Governor to appear, they organized, — choosing John Hancock chairman, and Benjamin Lincoln clerk. On the next day (October 7), they resolved themselves into a PROVINCIAL CONGRESS, and adjourned to meet at Concord, on the following Tuesday, where, on the 27th, they formally invited such members of the Council, chosen in May, as had not openly sided with the ministerial party to attend with them.

This first Provincial Congress, which was adjourned from Oct. 29 to Nov. 23, was dissolved Dec. 10, 1774, having previously passed a resolve recommending the several towns and districts to choose deputies to represent them in a second congress to be held at Cambridge on the 1st of February, following. The second congress, which had one adjournment, from Feb. 16 to March 22, was convened according to the above-mentioned recommendation; and the date of the last record of its doings is May 29, 1775, although the journal after May 21 is not preserved.

Two days after this last entry, a third congress was assembled at Watertown, upon a similar call. There were present 229 delegates in the second congress, and 245 in the third congress, which continued in session until the General Court was re-established.

In less than ten months from their first assembling, these congresses had assumed throughout the province, except within the town of Boston and the immediate vicinity actually occupied by the king's forces, full control of the three

great functions of government; — legislative, judicial, and executive. Although no formal acts were passed in either of these congresses, their doings, both legislative and executive, had been, in most instances, general in their operation, and were so important, and frequently permanent, in their effect, that it was deemed essential to have their validity established in the most solemn manner. Accordingly, the first act of the General Court, after its re-establishment, was an act to ratify all the doings of the three congresses.

This brings us to the consideration of the manner in which the resumption, by the General Court, of its functions under the charter was brought about, after they had been suspended for more than a year, by the operation of the act of parliament "for the better regulating the Government of the Province of Massachusetts Bay."

As the time approached for issuing writs under the charter for a new assembly, in 1775, the Provincial Congress, then in session, began to consider what course it should recommend to the people to pursue in relation to the convening of the General Court and the choice of representatives.

It is likely that, notwithstanding the change made in the charter by the act of parliament "for the better regulating the Government of the Province," etc., the leaders of the popular party were not without hope that the effect of that act might in some way be avoided, either by its repeal or from necessity, since it was evident that the few *mandamus* councillors who had not resigned would never actually sit as a council, outside of Boston; and a quorum of that branch was essential to the complete organization of the General Court.

Whether influenced by this expectation, or simply by the determination that there should be no appearance of a design, on their part, to evade a duty imposed by the charter, the Provincial Congress resolved, April 1, 1775, that if writs should be regularly issued for calling a general assembly to be held on the last Wednesday of May, the several towns ought to obey such precepts, and choose representatives, as usual, but advised that the representatives so chosen do no business with the council appointed by *mandamus*, and, if the house should be dissolved, then that the members re-assemble in a provincial congress. Another resolve was passed at the same time, recommending the towns to choose delegates to a new

provincial congress in case no writs for calling an assembly were issued.

The affair at Lexington on the 19th of April, however, changed the prevailing sentiment with regard to the duty of the people to respect the agents of the crown, and led them to take a further important step towards revolution. By the 20th of April, Gage had issued writs for convening a new assembly, to be held on the last Wednesday of May. As soon as a copy could be procured, a committee was appointed to consider the propriety of recommending to the several towns and districts to take no notice of these precepts. This was April 28; and on the 4th of May, "after a long and serious debate," a committee was appointed, by a vote of 94 out of 107 members, to bring in a resolve for reconsidering the resolve of the 1st of April. The next day, this committee reported two resolves, —one reconsidering and annulling the resolve of April 1, and the other declaring that no obedience whatever ought in the future to be given to General Gage, but that "he ought to be considered and guarded against as an unnatural and inveterate enemy to this country." The congress at the same time appointed a committee to prepare a resolve recommending the election of delegates "for a new provincial congress to be held on the last Wednesday of the present month."

The suggestions as to "resuming the first charter, absolute independency, etc.," [1] which, according to John Adams, had startled the delegates at the Continental Congress in September, previous, were now earnestly renewed; but it was concluded not to adopt measures which might be looked upon by the other colonies as extreme and unwarranted, without the advice and consent of the Congress at Philadelphia. On the 12th of May, therefore, upon the report of a committee of the whole house, a committee was appointed "by a very large majority" to submit the draught of an application to the Continental Congress "for obtaining their recommendation for this *colony* to take up and exercise civil government as soon as may be, and that the committee be directed to ground the application on the necessity of the case." On the 15th the form of application reported by this committee was read,

[1] Letter to General Palmer, Sept. 26, 1774: John Adams's Works, vol. i. p. 154.

"paragraph by paragraph," and accepted, and a messenger was forthwith despatched to deliver it to the president of the Congress.

In answer to this application the Continental Congress adopted a resolve, June 9, 1775, to the effect that as no obedience was due to the act of parliament altering the charter of the province, "nor to a governor or a lieutenant-governor who will not observe the directions of, but endeavor to subvert, that charter, the governor and lieutenant-governor of that colony are to be considered as absent, and their offices vacant;" and recommending the Provincial Congress, "in order to conform, as near as may be, to the spirit and substance of the charter," to issue precepts for a general assembly which, "when chosen, do elect councillors; and that such assembly, or council, exercise the powers of government until a governor of his Majesty's appointment will consent to govern the *colony* according to its charter."

The third and last Provincial Congress was in session during the battle of Bunker's Hill, and, on the day after the battle, a committee was appointed who, on the 19th, reported the form of a precept for choosing deputies to represent the several towns at a general court, to be held, pursuant to the advice from Philadelphia, in the meeting-house at Watertown, on the 19th day of July, following. Precepts, issued in accordance with a prescribed form, were ordered to be sent to all towns and districts throughout the province.

Two hundred and five deputies assembled at the time and place appointed for the meeting of the General Court; and on the 21st of July they proceeded to the choice of twenty-eight councillors, fourteen of whom appear to have taken their seats at the board on the 26th, and seventeen on the 27th, of the same month. On the 28th, the House passed a preamble and resolve, to the effect that, the governor and lieutenant-governor having absented themselves, and refused to govern the province according to the charter, until they return to "their duty, or some governor shall be appointed to govern the province according to the charter," they will recognize the Council, or the major part of them, as governor, and will acquiesce in their doings as such.

The new government thus organized — the legislative records of the Council, commonly called the General Court Records,

beginning on the 26th of July—held sway, without any other executive head than the Council, until the adoption of the Constitution.

It is noticeable that in the correspondence between the Provincial Congress and the Congress at Philadelphia the designation of Massachusetts as a *province* was studiously avoided. This is explained by the fact, which could no longer be ignored, that those relations with the parent state which made the government of this people and territory distinctively provincial, had terminated. The authority of the immediate agents of the crown had been repudiated; all supervision of our affairs by the Privy Council had practically ceased, and even Parliament, by overstepping the limits which, it was claimed, were prescribed for it by common right and the British Constitution, had, in the opinion of the popular party, forfeited all claim to obedience, at least so long as the unconstitutional legislation remained unrepealed. Up to this time, however, the belief which was cherished by many patriots, that separation from the mother country was not inevitable, had been generally deferred to, even by those who considered it delusive; and hence the title "province" was replaced by that of "colony," to avoid the appearance of any intention to renounce all dependence upon Great Britain.

Another objection, also, to retaining the word "province" arose from that provision of the charter which required all laws to be published under the province seal. This instrument was in the custody of the royal Governor, and had been affixed by him to proclamations and other official papers issued since his authority had been repudiated by the representatives of the people. There could be but one genuine seal of the province, and therefore it became necessary, in order to comply as nearly as possible with all the requirements of the charter, to establish a new public seal in character distinct from the seal previously used. Accordingly, on the 28th of July, an order was adopted appointing "a committee to consider what is necessary to be done relative to a colony seal." This committee reported, on the 5th of August, "that the device of the old province seal be not taken up," but that a new device and motto submitted by them with the report, be adopted. The design proposed by this committee, with some changes, was agreed to, the same day, and on the 7th a joint committee was

appointed "to direct the making" of the seal. This new seal continued to be affixed to the engrossments of the acts until towards the close of the May session, 1776, which was prorogued on the 13th of July.

The former great seal of the province remained in the Council Chamber, at Boston, whence, together with all the other public seals, it was secretly purloined some time between the 9th of September and the 4th of October, 1775. The loss of these insignia was considered so serious by the Governor that he immediately communicated the fact to Secretary Dartmouth; but before they could be replaced, the progress of the Revolution had rendered them useless.

Early in the second session a question arose as to the proper wording of the introduction to be printed with the acts of the first session, and a committee was appointed to prepare a form for that purpose. To the draught reported to the council, by this committee, amendments, which included the substitution of "colony" for "province," were offered by the House, and, these amendments being concurred in, the resolve establishing this form was passed on the 30th of September, and this new heading, which is as follows: "Acts and Laws, Passed by the Great and General Court or Assembly of the Colony of the Massachusetts-Bay in New England," etc., continued to be used until the year 1778.

The regal year continued to be given in all the acts before the act of April 13, 1776, which is the first act in which it was changed to the year of the Christian era, although the alteration was first made, on the 5th of April, in the bill of another act, which was not finally passed until a few days later. By the 1st of May, an act was passed requiring a similar change to be made in the precepts for convening the assembly, and in all legal processes, though the title of "colony" was still retained until the second session of the next assembly, when, tidings of the declaration of independence having been received during the previous vacation, the title of STATE began and continued to be used to designate the sovereign authority.